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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Argentina, Armenia, Australia, Chile, Colombia, Georgia, Hungary, Iceland, Ireland, Liechtenstein, Norway, Panama, Switzerland, United States of America and Vanuatu: draft resolution

Recognizing the role of human rights defenders and the need for their protection

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Guided also by the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and other relevant instruments,

Recalling its resolution 53/144 of 9 December 1998, by which it adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, as well as all other previous resolutions on this subject, including its resolutions 66/164 of 19 December 2011 and 68/181 of 18 December 2013 and Human Rights Council resolutions 22/6 of 21 March 2013 and 25/18 of 28 March 2014,

Reaffirming the importance of the Declaration and its implementation, and that promoting respect and support for the activities of human rights defenders is essential to the overall enjoyment of human rights,

Welcoming the steps taken by the United Nations High Commissioner for Human Rights and some States and regional organizations in making the Declaration available and known to all stakeholders at the national and local levels in their respective languages, and underlining the need to promote and give full

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.

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effect to the Declaration, including through its translation into the various languages and further dissemination with a view to its implementation in all regions,

Emphasizing the important role that individuals and civil society institutions, including non-governmental organizations, groups and national human rights institutions, play at the local, national, regional and international levels in the promotion and protection of all human rights and fundamental freedoms for all,

Recognizing the substantial role that human rights defenders can play in supporting efforts to strengthen conflict prevention, peace and development, through dialogue, openness, participation and justice, including by monitoring, reporting on and contributing to the promotion and protection of human rights,

Recognizing also the vital work of human rights defenders in promoting, protecting and advocating the realization of economic, social and cultural rights, and concerned that threats, attacks and restrictions against human rights defenders have a negative impact on the realization of these rights, including as they relate to environmental and land issues as well as development,

Reaffirming that States are under the obligation to protect all human rights and fundamental freedoms of all persons, underscoring that the legal framework within which human rights defenders work peacefully to promote and protect human rights and fundamental freedoms is that of national legislation consistent with the Charter and international human rights law, and recognizing the need, where necessary, to review and amend relevant legislation and its implementation in order to ensure compliance with the obligations and commitments of States under international human rights law,

Mindful that domestic law and administrative provisions and their application should enable the work of human rights defenders, including by avoiding any criminalization or stigmatization of the important activities of human rights defenders and the communities of which they are a part or on whose behalf they work, and by avoiding impediments, obstructions, restrictions or selective enforcement thereof contrary to relevant provisions of international human rights law,

Gravely concerned by the considerable and increasing number of communications received by special procedures of the Human Rights Council documenting the serious nature of the risks faced by human rights defenders, including women human rights defenders, and the prevalence of impunity for violations and abuses against them in many countries, where they may frequently face threats, harassment and attacks and suffer insecurity, including through restrictions on freedom of association or expression or the right to peaceful assembly, abuse of criminal or civil proceedings, or deplorable acts of intimidation and reprisal intended to prevent their cooperation with the United Nations and other international bodies in the field of human rights,

Gravely concerned also that in some instances human rights defenders are subject to attacks, threats and other abuses by non-State actors, and underlining the need for the human rights and fundamental freedoms of human rights defenders to be respected and protected,

Gravely concerned further that national security and counter-terrorism legislation and other measures, such as laws regulating civil society organizations,

are in some instances misused to target human rights defenders or hinder their work, endangering their safety in a manner contrary to international law,

Welcoming the steps taken by some States, including in follow-up of the universal periodic review under the Human Rights Council, towards the improvement of dialogue between authorities and civil society and towards the adoption of national policies and legislation that serve to create a safe and enabling environment and to recognize and protect human rights defenders, in particular from being prosecuted for peaceful activities, and against threats, harassment, intimidation, duress, arbitrary detention or arrest, enforced disappearance, violence and attacks by State and non-State actors,

Determined that dissenting views, including views on government and corporate policies related to or with an impact on human rights, may be expressed peacefully and communicated freely in society, online and offline, in accordance with international human rights law, and stressing in this regard the importance of independent voices of civic activity, human rights education and independent, impartial and competent national judicial systems,

Stressing in particular that information and communication technologies are important tools for the promotion of human rights and reporting on violations, and concerned by reports that such technologies are increasingly being used to monitor and hamper the work of human rights defenders,

Strongly reaffirming that everyone has the right, individually and in association with others, to promote and strive for the protection and realization of human rights and fundamental freedoms at the national and international levels, as laid out in the Declaration, including in the context of promoting the implementation of the 2030 Agenda for Sustainable Development,[3]

1. *Stresses* that the right of everyone to promote and strive for the protection and realization of human rights and fundamental freedoms without retaliation or fear thereof is an essential element in building and maintaining sustainable, open and democratic societies;

2. *Calls upon* all States to take all measures necessary to ensure the rights and safety of human rights defenders who exercise the rights to freedom of opinion, expression, peaceful assembly and association, which are essential for the promotion and protection of other rights;

3. *Welcomes* the work and the reports of the Special Rapporteur on the situation of human rights defenders;

4. *Urges* States to acknowledge through public statements, policies or laws the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law as essential components of ensuring their recognition and protection;

5. *Strongly condemns* the violence against and the targeting, criminalization, intimidation, torture, disappearance, killing and thus silencing of human rights defenders for reporting and seeking information on human rights violations, and stresses the need to combat impunity by ensuring that those responsible for violations and abuses against human rights defenders, including

[3] Resolution 70/1.

against their legal representatives, associates and family members, are promptly brought to justice through impartial investigations;

6. *Condemns* all acts of intimidation and reprisal by State and non-State actors against individuals and groups, including against human rights defenders and their legal representatives, associates and family members, who seek to cooperate, are cooperating or have cooperated with subregional, regional and international bodies, including the United Nations, its representatives and mechanisms, in the field of human rights;

7. *Welcomes* the efforts made by some States to investigate allegations of intimidation or reprisal and to bring perpetrators to justice, and encourages Governments to support such efforts, including as called for in paragraph 18 of the present resolution;

8. *Urges* States and leaders in all sectors of society to condemn unequivocally and publicly all cases of violence and discrimination against human rights defenders, including women human rights defenders;

9. *Urges* non-State actors to respect the human rights and fundamental freedoms of all persons and to refrain from undermining the capacity of human rights defenders, including women human rights defenders, to operate free from hindrance and insecurity;

10. *Strongly urges* the release of persons detained or imprisoned for exercising their human rights and fundamental freedoms, such as the rights to freedom of expression, peaceful assembly and association, including in relation to cooperation with the United Nations or other international mechanisms in the area of human rights, and demands that States take concrete steps to prevent and put an end to the practice of the arbitrary arrest and detention of human rights defenders;

11. *Reaffirms* the urgent need to respect, protect, facilitate and promote the work of those promoting and defending economic, social and cultural rights, as a vital factor contributing towards the realization of those rights, including as they relate to environmental and land issues as well as development;

12. *Calls upon* all States to create and maintain a safe and enabling environment for the defence of human rights and specifically to ensure that:

(a) The promotion and protection of human rights are not criminalized or met with limitations in contravention of international human rights law;

(b) Human rights defenders, their family members, associates and legal representatives are not prevented from enjoying universal human rights owing to their work, including by ensuring that all legal provisions, administrative measures and policies affecting them, including those aimed at preserving public safety, public order and public morals, are minimally restrictive, clearly defined, determinable, non-retroactive and compatible with relevant provisions of international human rights law;

(c) Measures to combat terrorism and preserve national security are in compliance with their obligations and commitments under international law, in particular under international human rights law, and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and

defending human rights, while defining transparent and foreseeable criteria to identify clearly which offences qualify as terrorist acts;

(d) Where legislation and procedures governing registration and funding for civil society organizations exist, these are transparent, non-discriminatory, expeditious, inexpensive, allow for the possibility to appeal and avoid requiring re-registration, and that such national provisions are in compliance with international human rights law;

(e) Procedural safeguards, including in criminal cases, are in place in accordance with international human rights law in order to avoid the use of unreliable evidence, unwarranted investigations and procedural delays, thereby effectively contributing to the expeditious closing of unsubstantiated cases, including against human rights defenders, and individuals are afforded the opportunity to lodge complaints directly with the appropriate authority;

(f) Information held by public authorities, including but not limited to information on grave violations of human rights, is effectively disclosed, and transparent and clear laws and policies provide for a general right to request and receive such information, for which public access should be granted, except within narrow and clearly defined limitations;

(g) Provisions do not prevent public officials from being held accountable, and penalties for defamation are limited in order to ensure proportionality and reparation commensurate with the harm done;

(h) Information and communication technologies are not used in a manner that amounts to arbitrary or unlawful interference with the privacy of individuals or to threats against human rights defenders;

13. *Urges* States to develop and put in place comprehensive and sustainable public policies and programmes that support and protect human rights defenders, including their family members, associates and legal representatives;

14. *Reaffirms* the utility and benefit of consultations and dialogue with human rights defenders related to public policies and programmes for protection purposes as put forward in paragraph 13 of the present resolution, and encourages States to appoint focal points or to employ other relevant mechanisms for human rights defenders within the public administration;

15. *Continues to express particular concern* about systemic and structural discrimination and violence faced by women human rights defenders in many countries and parts of the world, and reiterates its strong call upon States to take appropriate, robust and practical steps to protect them, as called for by the General Assembly in its resolution 68/181 of 18 December 2013;

16. Expresses concern about stigmatization and discrimination that target or affect individuals and associations defending the rights of persons belonging to minorities or espousing minority beliefs or views, or other groups vulnerable to discrimination, and calls upon States to renounce firmly all discrimination and violence, underlining that such practices can never be justified on any grounds;

17. *Reaffirms* the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of

human rights, including the Human Rights Council, its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms;

18. *Strongly calls upon* all States to take due note of the recommendations contained in the reports of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, and specifically to:

(a) Refrain from, and ensure adequate protection from, any act of intimidation or reprisal against human rights defenders who cooperate, have cooperated or seek to cooperate with international institutions, including their family members and associates;

(b) Fulfil the duty to end impunity for any such acts of intimidation or reprisals by bringing the perpetrators to justice and by providing an effective remedy for their victims;

(c) Avoid legislation, measures and practices that have the effect of undermining the right reaffirmed in paragraph 17 of the present resolution;

19. *Encourages* regional organizations to consider the situation of human rights defenders and to develop and employ appropriate and effective guidelines and mechanisms for their protection, addressing violations and abuses by State and non-State actors;

20. *Invites* leaders in all sectors of society and in their respective communities, including political, military, social and religious leaders and leaders in business and the media, to express public support for the important role of human rights defenders, including women human rights defenders, and the legitimacy of their work;

21. *Underscores* the responsibility of business enterprises to respect human rights, which includes avoiding infringement upon the fundamental rights to life, liberty and security of person of human rights defenders, and their exercise of the rights to freedom of expression, peaceful assembly and association, and participation in public affairs, which are essential for the promotion and protection of other rights, including economic, social and cultural rights, and urges enterprises to identify and address any adverse human rights impacts related to their activities through meaningful consultation with potentially affected groups and other relevant stakeholders in a manner consistent with the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework;[4]

22. *Encourages* national human rights institutions to pay due attention to the situation of human rights defenders, including through consultations with relevant stakeholders on issues such as legislation, policies and administrative measures that affect the defence of human rights, and to develop and support the documentation of violations and abuses against human rights defenders and their legal representatives, associates and family members;

23. *Encourages* the Office of the United Nations High Commissioner for Human Rights and the special procedures to continue the efforts related to the

[4] A/HRC/17/31, annex.

protection of human rights defenders, as laid out in relevant resolutions, including by offering assistance for the consideration of States in bringing their legislation and its application into line with international human rights law;

24. *Encourages* United Nations bodies, agencies and other entities, within their respective mandates and in cooperation with the Office of the United Nations High Commissioner for Human Rights and the Special Rapporteur, to address the situation of human rights defenders in their work in order to contribute to the effective implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;[5]

25. *Requests* all concerned United Nations agencies and organizations, within their mandates, to provide all possible assistance and support to the Special Rapporteur for the effective fulfilment of his mandate, including in the context of country visits and through suggestions on ways and means of ensuring the protection of human rights defenders, including women human rights defenders;

26. *Urges* States to cooperate with and assist the Special Rapporteur in the performance of his tasks, including by responding without undue delay to the communications transmitted to them by the Special Rapporteur, and reiterates its call upon States to give serious consideration to responding favourably to the requests of the Special Rapporteur to visit their countries and to enter into a constructive dialogue with respect to the follow-up and implementation of recommendations, so as to enable the Special Rapporteur to fulfil his mandate even more effectively;

27. *Requests* the Special Rapporteur to continue to report annually on his activities to the General Assembly and the Human Rights Council, in accordance with his mandate;

28. *Requests* the Secretary-General to compile and regularly share information on national experiences and good practices, tracking the progress of implementation of the present resolution;

29. *Decides* to remain seized of the matter.

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[5] Resolution 53/144, annex.